

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

- - -

Harry G. Beyoglides, Jr.,
Special Administrator of the
Estate of Robert Andrew
Richardson, Sr., Deceased,
Plaintiff,

vs.

Case No. 3:14-CV-00158

Phil Plummer/Montgomery County
Sheriff, et al.,
Defendants

- - -

DEPOSITION OF DUSTIN JOHNSON
the Defendant herein, called by the Plaintiff under the
applicable Rules of Civil Procedure, taken before me,
Whitney Layne, a Notary Public for the State of Ohio, at
the law firm of Dinkler & Pregon, 5335 Far Hills Avenue,
Suite 117, Dayton, Ohio 45429 on November 17, 2015 at
8:00 a.m.

LAYNE & ASSOCIATES
6723 COOPERSTONE DRIVE
DUBLIN, OHIO 43017
614-309-1669

<p>1 APPEARANCES</p> <p>2</p> <p>3 NICHOLAS DICELLO, ESQUIRE</p> <p>4 SPANGENBERG, SHIBLEY & LIBER</p> <p>5 1001 Lakeside Avenue</p> <p>6 Suite 1700</p> <p>7 Cleveland, Ohio 44114</p> <p>8 on behalf of the Plaintiff</p> <p>9</p> <p>10 JAMEY PREGON, ESQUIRE</p> <p>11 DINKLER & PREGON</p> <p>12 5335 Far Hills Avenue</p> <p>13 Suite 123</p> <p>14 Dayton, Ohio 45429</p> <p>15 on behalf of the Sheriff Defendants</p> <p>16</p> <p>17 CARRIE STARTS, ESQUIRE</p> <p>18 REMINGER CO., LPA</p> <p>19 525 Vine Street</p> <p>20 Suite 1700</p> <p>21 Cincinnati, Ohio 45202</p> <p>22 on behalf of the Defendants</p> <p>23 NaphCare, Inc., Nurse Felicia Foster,</p> <p>24 Nurse Jon Boehringer, Nurse Krisandra</p> <p>Miles, Medic Steven Stockhauser,</p> <p>and Brenda Garrett Ellis, M.D.</p> <p>ANNE M. JAGIELSKI, ESQUIRE</p> <p>ASSISTANT PROSECUTING ATTORNEY</p> <p>301 West Third Street</p> <p>4th Floor</p> <p>Dayton, Ohio 45422</p> <p>on behalf of the Defendant</p> <p>Montgomery County Sheriff's Office</p> <p>Page 2</p>	<p>1 EXAMINATION INDEX</p> <p>2</p> <p>3 DUSTIN JOHNSON</p> <p>4 BY MR. DICELLO.....Page 5</p> <p>5</p> <p>6 EXHIBIT INDEX</p> <p>7 Exhibit Marked</p> <p>8 1.....Page 43</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>Page 4</p>
<p>1 November 17, 2015</p> <p>2 Tuesday Session</p> <p>3 8:00 a.m.</p> <p>4 - - -</p> <p>5 STIPULATIONS</p> <p>6</p> <p>7 It is stipulated by and among counsel for the</p> <p>8 respective parties that the deposition of DUSTIN JOHNSON,</p> <p>9 the Defendant herein, called by the Plaintiff under the</p> <p>10 applicable Rules of Civil Procedure, may be taken at this</p> <p>11 time by the notary Whitney Layne; that said deposition may</p> <p>12 be reduced to writing in stenotypy by the notary, whose</p> <p>13 notes thereafter may be transcribed out of the presence of</p> <p>14 the witness; and that the proof of the official character</p> <p>15 and qualification of the notary is waived.</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>Page 3</p>	<p>1 DUSTIN JOHNSON</p> <p>2 Being first duly sworn, as hereinafter</p> <p>3 certified, deposes and says as follows:</p> <p>4 CROSS-EXAMINATION</p> <p>5 BY MR. DICELLO:</p> <p>6 Q Good morning. Can you please state your name</p> <p>7 for the court reporter and spell your last name?</p> <p>8 A Dustin Johnson, J-O-H-N-S-O-N.</p> <p>9 Q You're a corrections officer with the</p> <p>10 Montgomery County?</p> <p>11 A Yes, I am.</p> <p>12 Q And do you go by Deputy or do you go by</p> <p>13 Corrections Officer?</p> <p>14 A Corrections officer.</p> <p>15 Q All right. Corrections Officer Johnson --</p> <p>16 A Yes, sir.</p> <p>17 Q -- my name is Nick DiCello. We had a chance to</p> <p>18 meet briefly off the record. You understand you're here</p> <p>19 to have your deposition taken today?</p> <p>20 A Yes.</p> <p>21 Q I represent the family of Robert Richardson,</p> <p>22 who passed away back in 2012 in the Montgomery County</p> <p>23 Jail. Do you understand you're here today to have your</p> <p>24 deposition taken in connection with a lawsuit that's been</p> <p>Page 5</p>

1 filed surrounding that death?
2 A Yes, I do.
3 Q Have you ever been deposed before?
4 A Yes, I have.
5 Q How many times?
6 A Just once.
7 Q When was that?
8 A I would say probably maybe three or four years
9 ago. Actually, probably five now.
10 Q Was it in connection with a civil case kind of
11 like this one?
12 A Yes.
13 Q Did it involve a situation that occurred at the
14 jail?
15 A Yes, it did.
16 Q Do you know if you were named as a defendant in
17 that case?
18 A I was.
19 Q Do you remember the name of the plaintiff?
20 A It was Louis AI -- Louis --
21 Q I'm sorry?
22 A Louis Aldini.
23 Q Did you ever testify in court in that case?
24 A No.

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1 Q Was Mr. Aldini alleging some type of excessive
2 force?
3 A Yes.
4 Q Did it involve an in-custody death or is
5 Mr. Aldini still alive?
6 A He's still alive.
7 Q Do you know what the outcome of the case was?
8 A Not exactly. I knew that they settled outside
9 of court is what I was told.
10 Q All right. So you've been through this once
11 before. And I'm sure your counsel has explained how it
12 goes. But just so we have an understanding, I'll ask the
13 questions, you'll provide the answers. Understood?
14 A Yes.
15 Q You've done a nice job until now. We have to
16 wait for each other to stop talking so Whitney can take
17 down everything we're saying. She's making a record,
18 okay?
19 A Yes.
20 Q You've also done a nice job up until now, but
21 your answers have to be audible; yes, no, or words, as
22 opposed to uh-huhs or huh-uhs. Those kinds of things are
23 hard for the record, okay?
24 A Yes.

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1 Q So one of us in the room might remind you of
2 that from time to time. It's not to be rude. It's just
3 to try to make sure we have a clear record. Fair?
4 A I understand.
5 Q If I ask you a question you don't understand, I
6 want you to tell me that. Will you do that?
7 A Yes.
8 Q Given that agreement we have, if you answer a
9 question that I've asked, I'm going to assume you
10 understood it. Is that fair?
11 A Yes.
12 Q Not uncommon in these things, Officer Johnson,
13 that your memory might get jogged 15 minutes after I asked
14 a question, you know, you might remember something about
15 an answer you gave that's not right and you want to
16 correct it. I want you to take the opportunity during
17 today's deposition to revisit any question that I've asked
18 or answer that you've given, okay?
19 A Yes.
20 Q You understand that you're under oath?
21 A I do.
22 Q You understand that the oath you're under today
23 is the same kind of oath you'd be under at a trial when
24 you're testifying in front of a jury. You understand

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1 that?
2 A Yes, sir.
3 Q And you understand that I'll be relying on your
4 answers today in connection with this matter?
5 A I understand.
6 Q What if anything did you do to prepare for
7 today's deposition?
8 MR. PREGON: And I'll object to the extent it
9 calls for attorney/client privilege. I assume you're
10 asking for things he did outside of talking to me or
11 counsel?
12 BY MR. DICELLO:
13 Q Did you talk with counsel?
14 A Yes.
15 Q Don't tell me anything you talked with him
16 about, all right?
17 A Okay.
18 Q But did you do anything other than talk with
19 your lawyers to prepare for the deposition today?
20 A I've reviewed my incident report from the jail
21 that I completed.
22 Q Did you -- When is the last time you reviewed
23 the incident report?
24 A Just before I walked in. I re-read my

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1 narrative.

2 **Q Your narrative?**

3 A Yes, sir.

4 **Q What about the video? Have you ever seen the**

5 **video that captures portions of the incident?**

6 A Yes, I have.

7 **Q When is the last time you reviewed that video?**

8 A Probably last week.

9 **Q Last week?**

10 A Yes.

11 **Q Other than the incident report and portions of**

12 **the video, did you review anything else to help you**

13 **prepare for today's deposition?**

14 A No, sir.

15 **Q Other than speaking with counsel, did you talk**

16 **with anybody else to prepare for today's deposition? I'm**

17 **not interested in scheduling and that kind of thing.**

18 A No, sir.

19 **Q Do you remember the incident?**

20 A Yes.

21 **Q Do you remember Robert Richardson?**

22 A Just from the incident, yes.

23 **Q What does he look like? Do you remember what**

24 **he looked like?**

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1 A He was a larger black male.

2 **Q When you say "larger," that can mean different**

3 **things to different people. So what do you mean?**

4 A He was very tall and --

5 **Q Very tall?**

6 A -- and I would consider overweight.

7 **Q How tall do you remember he was?**

8 A I would just guess around maybe six-one,

9 six-two. He was on the ground when I observed him.

10 **Q What's your date of birth?**

11 A It's --

12 MR. PREGON: I'm going to object to personal

13 questions. If you want his date of birth, we can give

14 that to you off the record.

15 MR. DICELLO: Okay. Let's go off the record.

16 (Discussion held off the record.)

17 BY MR. DICELLO:

18 **Q And your height and weight?**

19 A It is five-six, approximately 270 pounds.

20 **Q Was that about your -- Obviously your height**

21 **was the same. But was that about your same weight back in**

22 **May of 2012?**

23 A No, sir.

24 **Q Okay. Can you -- This is the personal question**

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1 **part.**

2 A Yeah, it's been a long year.

3 **Q I apologize for asking. But I think you**

4 **understand, given the nature of the circumstances,**

5 **people's heights and weights I think are relevant. So how**

6 **much were you weighing back in 2012?**

7 A I was probably about 205, 210.

8 **Q And how old were you back in 2012?**

9 A Got to do some math.

10 **Q Yeah, I was going to let you do that.**

11 A 26 years old, I guess.

12 **Q All right. I do want to ask a little bit of**

13 **background. Well, actually before we do that, you've told**

14 **me you remember Mr. Richardson being about six-one,**

15 **six-two, I think the terms you used is very tall, and he**

16 **was overweight. How much do you think he weighed?**

17 A I'd say close to 350 pounds.

18 **Q Did you ever talk with him?**

19 A Not that I recall.

20 **Q Had you ever met Robert Richardson before this**

21 **incident?**

22 A Not that I recall.

23 **Q Anything else you remember about him? Did he**

24 **have facial hair; do you know?**

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1 A I don't remember.

2 **Q Did he have long hair, short hair? Was he**

3 **bald? Do you remember that?**

4 A He was shorter hair.

5 **Q Tattoos, anything like that that you remember?**

6 A Not that I remember.

7 **Q Do you remember him saying anything during that**

8 **interaction you had with him?**

9 A No.

10 **Q I do want to get a little bit of background**

11 **information from you, Officer Johnson. Can you tell me**

12 **where you -- Are you from this local area?**

13 A Yes, sir.

14 **Q And maybe, I don't want to get too much into**

15 **your background, but when did you graduate high school?**

16 A 2003.

17 **Q Any formal education after high school?**

18 A Just with the sheriff's office. I've been

19 through the basic corrections academy.

20 **Q Tell me a little bit about your experience with**

21 **the corrections academy and the sheriff's office.**

22 A As far as like when I was hired in?

23 **Q Sure. Tell me when you started and how you**

24 **ended up where you are now.**

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1 A Okay. I was hired in in 2004 at the end of
2 June. So coming up on 12 years.
3 **Q Okay.**
4 A When we were hired in, we would be put into our
5 orientation, which lasts a week. From there, we are
6 assigned to the jail with an FTO, field training officer.
7 **Q Uh-huh.**
8 A And then upon completion of your field training
9 officer, within your first year we'll go to the basic
10 corrections academy at Sinclair. It lasted about 30 days.
11 So a month of training. We go over everything in the
12 academy there as far as defensive tactics, medical
13 procedures, first aid, CPR. And from there, I go back
14 into the jail after the completion of that, we take the
15 state certified test, and then we're off of our probation
16 period at the end of the year. At the end of the year, it
17 starts each year after we have to go to our training
18 center and be recertified with our training.
19 **Q Is that at Sinclair?**
20 A It's at our training facility.
21 **Q And where is that?**
22 A It's off of Stop 8.
23 **Q When did you come off your probationary period?**
24 **Would that have been 2005?**

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1 A 2005.
2 **Q So when -- as of coming off your probationary**
3 **period in 2005, what was your title?**
4 A Corrections officer.
5 **Q And what's your current title or rank?**
6 A I'm a corrections officer. I'm also a field
7 training officer.
8 **Q When did you become an FTO?**
9 A Probably five years ago.
10 **Q So you've been employed with the sheriff's**
11 **office from 2004 all the way through today?**
12 A Yes.
13 **Q Any other meaningful employment other than**
14 **working for the sheriff's office?**
15 A No, sir.
16 **Q Why did you become a corrections officer?**
17 A To get my foot in the door into law
18 enforcement, to help people.
19 **Q I want to ask some questions about some of the**
20 **training you've received. You alluded to some of it and**
21 **you did mention some medical training, and I'll follow up**
22 **on that in a little bit as well.**
23 A Yes.
24 **Q Have you received any training in prone**

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1 **positioning?**
2 A Yes.
3 **Q Can you tell me what it is you've received,**
4 **when you learned about this? What's your understanding --**
5 **Let me start off this way and work into it. What's your**
6 **understanding of prone restraint? What does that mean to**
7 **you?**
8 A Prone restraint would be having the inmate
9 ideally on his stomach area, staying away from his head
10 area, his back area, we're securing the limbs, normally
11 there's sufficient enough officers that each officer
12 ideally has a limb to secure to take away movement to
13 prevent harm to himself or to us officers.
14 **Q Prone positioning, you understand, is facedown**
15 **on the belly?**
16 A Yes.
17 **Q And tell me, I interrupted you, you were going**
18 **to tell me the training that you had when it comes to**
19 **prone positioning or prone restraint. So tell me about**
20 **that.**
21 A I'm sorry. I didn't understand your question.
22 **Q Yeah. What kind of training have you received**
23 **about prone positioning or prone restraint?**
24 A Annually, we go over defensive tactics, and

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1 that would be included in our defensive tactics, and also
2 in the basic corrections academy we learn how to properly
3 prone inmates.
4 **Q And what is that? I think you've told me where**
5 **you learned this. But I'm actually asking substantively.**
6 **What is the training you've received about when prone**
7 **restraint is appropriate, when it's not appropriate, is it**
8 **ever appropriate, those kinds of questions.**
9 A We secure them in the prone position, you know,
10 for handcuffing, any time to prevent injury to the inmate
11 or to us.
12 **Q Anything else that you've learned about prone**
13 **positioning or prone restraint?**
14 A No.
15 **Q Any training in terms of how long someone can**
16 **be kept in the prone position?**
17 A No.
18 **Q So let's go back to May of 2012. It's been**
19 **awhile ago now.**
20 A Yes.
21 **Q What shift were you working? Do they call them**
22 **shifts?**
23 A Yes.
24 **Q What shift were you working at the jail.**

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<p>1 A Oh. We also call them watches.</p> <p>2 Q Watches, thank you.</p> <p>3 A First -- I'm sorry, second watch, which would</p> <p>4 be considered first shift.</p> <p>5 Q Well, that's confusing.</p> <p>6 A Yes.</p> <p>7 Q Second watch first shift, what are those hours?</p> <p>8 A 7:30 to 3:30.</p> <p>9 Q 7:30 a.m.?</p> <p>10 A Yes, sir.</p> <p>11 Q To 3:30 p.m.?</p> <p>12 A Yes, sir.</p> <p>13 Q And as of the date that this happened, I</p> <p>14 believe it was May 19th, 2012, is that your recollection?</p> <p>15 A Yes.</p> <p>16 Q A Saturday?</p> <p>17 A I'd have to check my report. Yes, it was</p> <p>18 Saturday.</p> <p>19 Q Is the jail busier on the weekends?</p> <p>20 A No.</p> <p>21 Q No? Okay. Some places in the country jails</p> <p>22 get pretty busy on the weekends.</p> <p>23 A Depends. Like the housing units itself are</p> <p>24 not. Our first floor area is usually busier. This was up</p> <p style="text-align: right;">Page 18</p>	<p>1 down in booking?</p> <p>2 MR. DICELLO: Yeah, that's what I'm asking.</p> <p>3 BY MR. DICELLO:</p> <p>4 Q The folks down in booking, you still call them</p> <p>5 inmates?</p> <p>6 A Yes.</p> <p>7 Q And once they're classified and put into a</p> <p>8 housing area, you call them inmate?</p> <p>9 A Yes.</p> <p>10 Q And when you refer to an inmate, do you call</p> <p>11 them Inmate Richardson?</p> <p>12 A Yes.</p> <p>13 Q You don't use any first names?</p> <p>14 A Very rarely we use first names. Possibly just</p> <p>15 the last name. But it's Inmate Richardson or</p> <p>16 Mr. Richardson.</p> <p>17 Q Prior to Robert being detained at the jail this</p> <p>18 weekend that we're talking about back in May of 2012, had</p> <p>19 you ever had any interaction with him at the jail?</p> <p>20 A Not that I can recall.</p> <p>21 Q Were you involved in his booking process at</p> <p>22 all, if you know?</p> <p>23 A Not that I recall.</p> <p>24 Q Now, Mr. Richardson was housed on what floor?</p> <p style="text-align: right;">Page 20</p>
<p>1 in housing, the place of the incident.</p> <p>2 Q So on Saturday, May 19th, 2012, where were you</p> <p>3 assigned inside the jail for second watch first shift?</p> <p>4 A Prints and photo officer.</p> <p>5 Q And describe for me what that position entails.</p> <p>6 What responsibilities are there?</p> <p>7 A I'm in charge of taking mug shots and</p> <p>8 fingerprinting the new arrivals that are coming into the</p> <p>9 jail. It's part of our booking process.</p> <p>10 Q So where are you typically stationed?</p> <p>11 A The first floor.</p> <p>12 Q First floor?</p> <p>13 A Yes.</p> <p>14 Q So is it fair to say that you're kind of part</p> <p>15 of the intake team --</p> <p>16 A Yes.</p> <p>17 Q -- that's handling the processing of new</p> <p>18 detainees?</p> <p>19 A Yes, sir.</p> <p>20 Q Do you refer to all the folks at the jail as</p> <p>21 prisoners or inmates?</p> <p>22 A Inmates.</p> <p>23 Q Inmates, okay.</p> <p>24 MR. PREGON: All of them who are in housing or</p> <p style="text-align: right;">Page 19</p>	<p>1 A It's fourth floor of the new side area, which</p> <p>2 the housing unit itself is called Delta Pod.</p> <p>3 Q Delta Pod. And you said that's on the fourth</p> <p>4 floor?</p> <p>5 A Yes, sir.</p> <p>6 Q In a typical shift, if there is such a thing,</p> <p>7 or a typical watch, as the prints and photos officer do</p> <p>8 you spend most of your time on the first floor, I presume?</p> <p>9 A Yes, I do.</p> <p>10 Q So can you tell me, and you can reference your</p> <p>11 report, Officer, but tell me how it is that you came to</p> <p>12 find yourself on the fourth floor of the Delta Pod on May</p> <p>13 19th, 2012.</p> <p>14 A Yes, sir. It was the end of our shift. It was</p> <p>15 close to the end of it. I was -- Corrections Officer</p> <p>16 Henning, it was his first day on his FTO period, he was</p> <p>17 assigned to me, and it came out on the radio there was a</p> <p>18 medical issue in Delta Pod. So due to the lack of time</p> <p>19 of, you know, officers being available because of our roll</p> <p>20 call for next shift, I informed Officer Henning that we</p> <p>21 were going to respond to the pod, because, you know, for</p> <p>22 more officers to respond, we were available, so we went</p> <p>23 there to assist.</p> <p>24 Q Explain that a little bit for me. I don't want</p> <p style="text-align: right;">Page 21</p>

<p>1 to put words in your mouth, but I think you said due to</p> <p>2 the unavailability of some officers because there was roll</p> <p>3 call?</p> <p>4 A Yes.</p> <p>5 Q Explain what was happening such that there</p> <p>6 wasn't enough officers to respond.</p> <p>7 A We're in the middle of a shift change during</p> <p>8 this current time. Officers from the housing area come</p> <p>9 down and turn in, you know, mail, the keys they were</p> <p>10 assigned, the radios they were assigned, and the new</p> <p>11 officers coming on are retrieving those items. We receive</p> <p>12 a roll call that lasts approximately ten minutes, and from</p> <p>13 that point you'll go to your assigned area. So because</p> <p>14 that was happening, I understood the time of day, so you</p> <p>15 know, any incident we try to get as many officers there.</p> <p>16 So we're available through shift change. So me and my</p> <p>17 trainee responded to the area to assist.</p> <p>18 Q Who was the trainee that you had with you that</p> <p>19 day?</p> <p>20 A It was Corrections Officer Henning.</p> <p>21 Q Henning?</p> <p>22 A Yes.</p> <p>23 Q So he was still in his probationary period?</p> <p>24 A It was his first day in the jail, yes.</p> <p style="text-align: right;">Page 22</p>	<p>1 medical issue.</p> <p>2 Q And you don't remember who broadcast that out?</p> <p>3 A I do not, sir.</p> <p>4 Q Is that something that happens with any kind of</p> <p>5 regularity at the jail, where people are broadcasting</p> <p>6 assistance, requesting assistance because of medical</p> <p>7 issues?</p> <p>8 MR. PREGON: Objection.</p> <p>9 BY MR. DICELLO:</p> <p>10 Q Go ahead.</p> <p>11 A Multiple times a day, sir.</p> <p>12 Q Multiple times a day. Among the issues that</p> <p>13 you guys are dealing with in terms of medical issues that</p> <p>14 you're responding to, can you tell me some of the things</p> <p>15 that you guys get called to respond to?</p> <p>16 A Any possible medical issue that you can think</p> <p>17 of we're typically called, whether it be seizures, chest,</p> <p>18 you know, problems, chest pains, low blood sugar, high</p> <p>19 blood sugar.</p> <p>20 Q Okay.</p> <p>21 A Various.</p> <p>22 Q In terms of seizures, how often do you think</p> <p>23 you get called to respond to people who are having or</p> <p>24 thought to may be having a seizure?</p> <p style="text-align: right;">Page 24</p>
<p>1 Q First day in the jail?</p> <p>2 A Yes.</p> <p>3 Q So he had gone through the academy and the</p> <p>4 training and this was his first day at the jail, or he</p> <p>5 hadn't gone through that yet?</p> <p>6 A He had not gone through the corrections</p> <p>7 academy. He would have served his orientation prior to</p> <p>8 being assigned with me.</p> <p>9 Q Do you know how old Officer Henning was at that</p> <p>10 time?</p> <p>11 A I do not, sir.</p> <p>12 Q Younger than you, you think, or is this</p> <p>13 somebody entering corrections at an older age?</p> <p>14 A I would say a few years younger than me, yes.</p> <p>15 Q How is it that you became aware of this request</p> <p>16 for assistance because of a medical situation? Was it</p> <p>17 broadcast over a radio?</p> <p>18 A It would have been broadcast on the radio. I</p> <p>19 don't recall if it was the housing officer or our security</p> <p>20 control officer that called it down.</p> <p>21 Q And is it a code that's called out that you</p> <p>22 interpret as a medical situation, or do they say "we have</p> <p>23 a medical issue"?</p> <p>24 A Yes, we don't use codes anymore. It was just a</p> <p style="text-align: right;">Page 23</p>	<p>1 A It varies. I would say I respond to those at</p> <p>2 least weekly.</p> <p>3 Q So at least once a week you respond to a</p> <p>4 seizure call?</p> <p>5 A Yes, sir.</p> <p>6 Q Sometimes more than that?</p> <p>7 A Yes.</p> <p>8 Q You told me you had some medical training. I</p> <p>9 want to break that down a little bit. I think you</p> <p>10 mentioned that you're trained in first aid and CPR;</p> <p>11 correct?</p> <p>12 A Yes.</p> <p>13 Q Are you also trained to recognize medical or</p> <p>14 mental health conditions in members of the community who</p> <p>15 are detained in the jail?</p> <p>16 A Yes.</p> <p>17 Q Tell me a little bit about that training.</p> <p>18 A Each year in our annual training, we go over it</p> <p>19 and we have a mental health process that we go through.</p> <p>20 Our Samaritan Behavioral Health therapist, they provide us</p> <p>21 with monthly training. I've went through crisis</p> <p>22 intervention training, the CIT class. I've -- Other than</p> <p>23 that, just on-the-job training.</p> <p>24 Q So tell me, have you been trained to recognize</p> <p style="text-align: right;">Page 25</p>

<p>1 the signs and symptoms of somebody who is having a</p> <p>2 seizure?</p> <p>3 A Yes.</p> <p>4 Q Can you tell me -- I know you're not a doctor</p> <p>5 or a licensed medical professional. But as a corrections</p> <p>6 officer who responds to seizure calls on a weekly basis,</p> <p>7 what kind of signs and symptoms have you been trained to</p> <p>8 recognize for people who are having seizures?</p> <p>9 A The obvious one of them being unconscious,</p> <p>10 oftentimes they'll be shaking, sometimes they are still --</p> <p>11 our number one goal is to prevent injury to themselves, so</p> <p>12 we're going to secure the head, make sure it's not</p> <p>13 striking anything. We're going to, you know, brace them</p> <p>14 in a way, typically on their side, to a recovery position,</p> <p>15 to prevent injury to himself.</p> <p>16 Q Bloody sputum or saliva in the mouth, is that</p> <p>17 something you see in people that have seizures, or no?</p> <p>18 A Sometimes, yes. They can bite their tongue,</p> <p>19 the inside of their lips.</p> <p>20 Q How about disorientation? Is that something</p> <p>21 you see in people who are having seizures or coming out of</p> <p>22 a seizure?</p> <p>23 A Yes.</p> <p>24 Q And I think you've told me, but let me ask you:</p> <p style="text-align: right;">Page 26</p>	<p>1 on the housing unit, you know, they call for help up</p> <p>2 there, one guy is laying on the ground, I respond, they</p> <p>3 can attack us. So we're trained, you know, to secure the</p> <p>4 scene first of all. Once we secure the scene, then we're</p> <p>5 kind of looking for physical danger cues from the inmates</p> <p>6 to see what exactly is happening. So we're evaluating the</p> <p>7 incident itself.</p> <p>8 Q Did there come a point in time after you</p> <p>9 encountered this situation where you had satisfied</p> <p>10 yourself that Mr. Richardson did not have a weapon on him?</p> <p>11 A It wasn't an exact time of that, but I</p> <p>12 understood by his behavior that he was, you know -- he</p> <p>13 wasn't necessarily a -- going to assault me intentionally.</p> <p>14 Q When was it you came to that realization, that</p> <p>15 Mr. Richardson wasn't going to assault you?</p> <p>16 A Once we had him secured in the handcuffs.</p> <p>17 Q And I apologize if I asked the question, I'm</p> <p>18 not sure I got an answer. Once you had him secured in</p> <p>19 handcuffs, were you satisfied that he was unarmed?</p> <p>20 A He was secured. I did not pat him down for a</p> <p>21 weapon. But he was secured in handcuffs. And due to the</p> <p>22 officers that were there, we had sufficient staffing that</p> <p>23 I wasn't concerned for my safety at that point.</p> <p>24 Q Based on your observations of Mr. Richardson,</p> <p style="text-align: right;">Page 28</p>
<p>1 Are you telling me that the goal of the corrections</p> <p>2 officers when they respond to somebody who is having a</p> <p>3 seizure is the safety of the patient or the inmate?</p> <p>4 A Yes.</p> <p>5 Q I'm going to go through your statement and ask</p> <p>6 exactly what you saw, when you saw it, and we'll do all</p> <p>7 that, Officer, but I want to go through a couple of things</p> <p>8 first. You knew that Robert Richardson was unarmed;</p> <p>9 correct?</p> <p>10 MR. PREGON: Objection.</p> <p>11 A I would assume so. But there are weapons of</p> <p>12 opportunity inside the facility.</p> <p>13 BY MR. DICELLO:</p> <p>14 Q You had no reason to believe at the time you</p> <p>15 encountered Mr. Richardson that he was armed with a</p> <p>16 weapon; correct?</p> <p>17 MR. PREGON: Objection.</p> <p>18 Go ahead.</p> <p>19 A We're again trained to, you know, expect the</p> <p>20 worst, hope for the best. In that scenario, my past</p> <p>21 training, sometimes it's been used in past for inmates to</p> <p>22 get us to respond to a certain part of a jail, something</p> <p>23 happened in a different part of the jail, or it can be</p> <p>24 used as a ploy for us to be assaulted. If I'm by myself</p> <p style="text-align: right;">Page 27</p>	<p>1 did you understand he was having some type of medical</p> <p>2 episode?</p> <p>3 A That's what it appeared, yes.</p> <p>4 Q You knew that he was obese; correct?</p> <p>5 A I observed that, yes.</p> <p>6 Q Mr. Richardson was asking to be let up;</p> <p>7 correct?</p> <p>8 A I don't recall him saying anything.</p> <p>9 Q Do you recall Mr. Richardson saying he was</p> <p>10 having trouble breathing?</p> <p>11 A No.</p> <p>12 Q Do you recall him saying, "I've got to get out</p> <p>13 of here"?</p> <p>14 A I don't recall him saying anything.</p> <p>15 Q Did he appear disoriented to you?</p> <p>16 A Very much so.</p> <p>17 Q Did you understand that he was in need of</p> <p>18 medical attention?</p> <p>19 A Yes.</p> <p>20 Q Did you see that he was bleeding from his</p> <p>21 mouth?</p> <p>22 A I did observe that.</p> <p>23 Q When you first arrived, he was already on the</p> <p>24 ground; correct?</p> <p style="text-align: right;">Page 29</p>

<p>1 A Yes.</p> <p>2 Q He never tried to assault you; correct?</p> <p>3 A No.</p> <p>4 Q You sustained no injuries; correct?</p> <p>5 A Correct.</p> <p>6 Q He never verbally threatened you; correct?</p> <p>7 A No.</p> <p>8 Q He never verbally threatened anyone as far as</p> <p>9 you observed; correct?</p> <p>10 A Correct.</p> <p>11 Q And as far as you observed, Mr. Richardson</p> <p>12 never hurt anyone; true?</p> <p>13 A This is true.</p> <p>14 Q As far as you observed, did Mr. Richardson try</p> <p>15 to assault anyone?</p> <p>16 A No.</p> <p>17 Q This happened on Saturday. Did you work the</p> <p>18 day before? Did you work Friday?</p> <p>19 A No, sir.</p> <p>20 Q Friday was your day off?</p> <p>21 A Yes.</p> <p>22 Q As of the time that you encountered</p> <p>23 Mr. Richardson, you were unaware of any crime he had</p> <p>24 committed; correct?</p> <p style="text-align: right;">Page 30</p>	<p>1 Q Do you know what some of the risk factors are</p> <p>2 for folks that suffer from positional asphyxia?</p> <p>3 A Yes.</p> <p>4 Q Can you list them for me?</p> <p>5 A I would say loss of consciousness and</p> <p>6 ultimately death.</p> <p>7 Q But are some people -- what I'm trying to get</p> <p>8 at are are some people more susceptible to dying from</p> <p>9 positional asphyxiation as compared to others?</p> <p>10 MR. PREGON: Objection.</p> <p>11 A I don't know that. To me, it's just their</p> <p>12 positioning.</p> <p>13 BY MR. DICELLO:</p> <p>14 Q So whether or not someone is obese, do you know</p> <p>15 if that has any bearing on whether or not somebody is more</p> <p>16 susceptible to die from positional asphyxia versus less</p> <p>17 susceptible?</p> <p>18 MR. PREGON: Objection.</p> <p>19 A I wouldn't -- I wouldn't know that answer.</p> <p>20 BY MR. DICELLO:</p> <p>21 Q I should have told you at the beginning,</p> <p>22 Officer. If you don't know an answer, that's perfectly</p> <p>23 fine.</p> <p>24 A Okay.</p> <p style="text-align: right;">Page 32</p>
<p>1 A Correct.</p> <p>2 Q At the time you encountered Mr. Richardson, he</p> <p>3 hadn't violated any jail rules, had he?</p> <p>4 A I was unaware of that if he had or hadn't. It</p> <p>5 was, to my -- to my knowledge, my first dealing with him.</p> <p>6 Q As far as you knew, you were unaware of any</p> <p>7 jail rules that he had violated; correct?</p> <p>8 A Correct.</p> <p>9 Q Do you understand Mr. Richardson, based on the</p> <p>10 circumstances, to be at high risk of positional</p> <p>11 asphyxiation?</p> <p>12 MR. PREGON: Objection.</p> <p>13 A No, he was in prone position. There was no</p> <p>14 officers around his neck or his upper back area to cause</p> <p>15 that pressure.</p> <p>16 BY MR. DICELLO:</p> <p>17 Q Do you know what positional asphyxiation is? I</p> <p>18 know you're not a medical doctor or anything. I'm not</p> <p>19 asking for a medical definition. But do you know what the</p> <p>20 concept of positional asphyxiation is?</p> <p>21 A Yes.</p> <p>22 Q And from a corrections officer's perspective,</p> <p>23 what is that?</p> <p>24 A Enabling his airway for him to breathe.</p> <p style="text-align: right;">Page 31</p>	<p>1 Q I don't know or I don't remember.</p> <p>2 A Okay.</p> <p>3 Q I just treat everybody as the same.</p> <p>4 A Sure.</p> <p>5 Q What about preexisting heart disease? Do you</p> <p>6 know if that's a risk factor for positional asphyxiation?</p> <p>7 MR. PREGON: Objection.</p> <p>8 Go ahead.</p> <p>9 A I do not know.</p> <p>10 BY MR. DICELLO:</p> <p>11 Q Physical struggle? Do you know if that puts</p> <p>12 somebody at high risk for positional asphyxia?</p> <p>13 MR. PREGON: Objection.</p> <p>14 Go ahead.</p> <p>15 A I would say increase it, just because their</p> <p>16 heart rate would be faster.</p> <p>17 BY MR. DICELLO:</p> <p>18 Q What about the use of rear handcuffing while</p> <p>19 someone is in a prone position? Do you know if that</p> <p>20 increases the risk of positional asphyxiation?</p> <p>21 MR. PREGON: Objection.</p> <p>22 Go ahead.</p> <p>23 A I do not know.</p> <p>24 BY MR. DICELLO:</p> <p style="text-align: right;">Page 33</p>

1 **Q** What about foam or mucus coming from the nose
2 or mouth? Do you know if that's a sign of positional
3 asphyxiation?
4 MR. PREGON: Objection.
5 Go ahead.
6 A I do not know.
7 BY MR. DICELLO:
8 **Q** Somebody saying they can't breathe, verbal
9 complaints of being unable to breathe. Do you know if
10 that's a sign or symptom of potential positional
11 asphyxiation?
12 MR. PREGON: Objection.
13 Go ahead.
14 A It would be a sign, because they're saying they
15 can't breathe. But as far as their, you know, discomfort,
16 I would assume, yes, and then we would readjust to better
17 let them breathe. But --
18 BY MR. DICELLO:
19 **Q** Drug use? Do you know if that increases the
20 risk of positional asphyxiation?
21 MR. PREGON: Objection.
22 Go ahead.
23 A I do not know.
24 BY MR. DICELLO:

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1 **Q** So it sounds to me like you hadn't had training
2 in the risk factors that can predispose somebody to
3 positional asphyxiation; fair?
4 A We've had training to the -- in the recovery
5 position to prevent asphyxiation. But I don't know the
6 risk factors. Because ideally, we've prevented them from
7 that. So I've never had an issue with it.
8 **Q** I want to ask kind of some general concepts and
9 rules and see if you agree, disagree, or don't know, okay?
10 A Yes.
11 **Q** Corrections officers must never apply
12 restraints in ways that may restrict someone's breathing;
13 agreed?
14 A I would agree.
15 **Q** Corrections officers must only use that level
16 of force that is reasonable and necessary; agreed?
17 MR. PREGON: Objection.
18 Go ahead.
19 A Agreed.
20 BY MR. DICELLO:
21 **Q** Unnecessary force is excessive force; true?
22 MR. PREGON: Objection.
23 A I'm sorry. Could you ask the question?
24 **Q** Sure. Unnecessary force is excessive force;

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1 agreed?
2 MR. PREGON: Objection.
3 A I would disagree.
4 BY MR. DICELLO:
5 **Q** So you think there are times you can use more
6 force than is necessary but it's not excessive?
7 A Yes.
8 MR. PREGON: Objection.
9 BY MR. DICELLO:
10 **Q** What situations are those that you can use more
11 force than is necessary?
12 A Well, if I'm not getting struck, but he's
13 trying to strike me, you know, I haven't gotten struck
14 yet, but I can then strike that person to prevent him from
15 striking me.
16 **Q** Okay.
17 A So there has been no -- he hasn't actually
18 assaulted me, I've prevented the assault.
19 **Q** So in that situation you would strike to
20 prevent being struck?
21 A Yes.
22 **Q** And you think that is a situation where it's
23 more force than is necessary?
24 MR. PREGON: Objection.

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1 Go ahead.
2 A It was necessary to prevent it.
3 BY MR. DICELLO:
4 **Q** Right. So my question is a little different.
5 And I think your example is saying, well, I need to strike
6 that person to prevent being struck; right?
7 A Yes.
8 **Q** I would describe that situation as necessary
9 force. Would you agree?
10 A Depends on who you would ask.
11 **Q** I'm asking you.
12 A I would say yes.
13 **Q** So with that kind of understanding, do you
14 agree that unnecessary force, force that is not necessary
15 under the circumstances, is excessive?
16 MR. PREGON: Objection.
17 Go ahead.
18 A I'm sorry, could you ask this one more time?
19 BY MR. DICELLO:
20 **Q** Yeah, that's okay. Unnecessary force, in other
21 words force that is not necessary, is excessive force?
22 MR. PREGON: Objection.
23 A That would be true.
24 BY MR. DICELLO:

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1 **Q** Placing members of our community who are in
2 restraints in a prone position is never an acceptable
3 practice, is it?
4 MR. PREGON: Objection.
5 A I'm sorry, could you -- could you ask the
6 question?
7 BY MR. DICELLO:
8 **Q** That's okay. I can repeat this as many times
9 as you want.
10 Placing members of our community who are in
11 restraints -- when I say "restraints," I mean handcuffs.
12 A Yes.
13 **Q** So placing members of the community who are in
14 handcuffs, their hands cuffed behind their back, in a
15 prone position, is never an acceptable practice, is it?
16 MR. PREGON: Objection.
17 A It is. It's a common practice, I would say.
18 BY MR. DICELLO:
19 **Q** Common at the jail?
20 MR. PREGON: Objection.
21 A Yes.
22 BY MR. DICELLO:
23 **Q** It is prohibited; agreed?
24 MR. PREGON: Objection.

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1 A No.
2 BY MR. DICELLO:
3 **Q** Your understanding of the policies, the rules,
4 the laws, whatever applies to you folks in the jail, is
5 that positioning a member of our community in a prone
6 position with their hands cuffed behind their back is
7 permitted; correct?
8 A Yes, for a short time.
9 **Q** And it's common; true?
10 MR. PREGON: Objection.
11 A Until the incident is over, yes.
12 BY MR. DICELLO:
13 **Q** I've got a definition of prone restraint here
14 that I have to read to you and see if you agree. I'm
15 going to take it slow, because it's kind of a convoluted
16 definition.
17 MR. PREGON: Objection.
18 BY MR. DICELLO:
19 **Q** But sometimes this happens when you have to ask
20 these questions. Do you understand that prone restraint
21 means all items or measures used to limit or control the
22 movement or normal functioning of any portion or all of an
23 individual's body while the individual is in a facedown
24 position for an extended period of time? Do you agree

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1 with that definition of prone restraint?
2 MR. PREGON: Objection.
3 A Could you read it one more time?
4 BY MR. DICELLO:
5 **Q** Yeah. Prone restraint --
6 A Yes.
7 **Q** -- is all items or measures used to limit or
8 control the movement or normal functioning of any portion
9 or all of an individual's body while the individual is in
10 a facedown position for an extended period of time?
11 A Okay.
12 MR. PREGON: Objection.
13 BY MR. DICELLO:
14 **Q** Do you agree with that definition of prone
15 restraint?
16 A Yes.
17 **Q** Do you know what a transitional hold is? Have
18 you ever heard that term?
19 A No, sir.
20 **Q** Have you ever received any training on a
21 transitional hold?
22 A Not in that terminology, no.
23 **Q** Have you ever heard of a -- When you're talking
24 about restraint or struggling with a member of the

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1 community who is detained at the county jail, have you
2 ever heard of something called the three-minute rule?
3 A No, sir.
4 **Q** I'll state it without using that title, but
5 have you ever heard that a member of our community who is
6 detained at the Montgomery County Jail is at an elevated
7 risk of sudden death after struggling with corrections
8 officers for at least three minutes?
9 MR. PREGON: Objection.
10 A No, sir.
11 BY MR. DICELLO:
12 **Q** Never heard about that?
13 A No, sir.
14 **Q** Do you agree that corrections officers must
15 never restrain people in ways that pose an unnecessary
16 risk of death?
17 MR. PREGON: Objection.
18 A Yes, sir.
19 BY MR. DICELLO:
20 **Q** And that's one of the jobs of the corrections
21 officer, is to avoid restraining people in ways that pose
22 an unnecessary risk of death; agreed?
23 A Yes.
24 **Q** Faced with two or more ways to restrain a

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<p>1 member of the community who finds him or herself detained</p> <p>2 at the Montgomery County Jail, the corrections officer</p> <p>3 must choose the safer way; agreed?</p> <p>4 A Yes. Typically, that's going to be decided by</p> <p>5 our supervisors at that point.</p> <p>6 Q Are you aware of any research or literature in</p> <p>7 your field that finds that prone restraint is a hazardous</p> <p>8 and potentially lethal position?</p> <p>9 A No.</p> <p>10 Q Has anyone ever told you that the use of prone</p> <p>11 restraint is prohibited in the state of Ohio?</p> <p>12 A No.</p> <p>13 Q Have you ever reviewed any executive orders by</p> <p>14 the governors, past couple of governors in the state of</p> <p>15 Ohio that say the use of prone restraint is prohibited in</p> <p>16 this state?</p> <p>17 A No. The only thing I can recall is they term</p> <p>18 it as hog-tying, where they -- they're handcuffed in some</p> <p>19 sort of leg restraints. Apparently, years ago they would</p> <p>20 use that to tie to where they're behind their backs and</p> <p>21 the leg restraints and the arched back. And that would be</p> <p>22 called hog-tying.</p> <p>23 Q You guys aren't doing that?</p> <p>24 A Correct.</p> <p style="text-align: right;">Page 42</p>	<p>1 as your narrative statement?</p> <p>2 A Yeah. This is the beginning part of it, yes.</p> <p>3 Q Let me ask you some questions about how and</p> <p>4 when this is filled out. It looks like the date reported</p> <p>5 is May 20th, 2012 at 8:30 in the morning; correct?</p> <p>6 A Yes.</p> <p>7 Q So is this something you would have filled out</p> <p>8 on a computer the following day when you got into work?</p> <p>9 A Yes.</p> <p>10 MR. PREGON: Just so we're clear, there's one</p> <p>11 that's above and one below. Which one are we talking</p> <p>12 about?</p> <p>13 MR. DICELO: His narrative statement.</p> <p>14 MR. PREGON: So is the top one yours or is it</p> <p>15 the bottom?</p> <p>16 THE WITNESS: The bottom. Or I'm sorry --</p> <p>17 MR. PREGON: There's one after it, too.</p> <p>18 THE WITNESS: The top.</p> <p>19 MR. PREGON: It's the top?</p> <p>20 THE WITNESS: Yeah.</p> <p>21 BY MR. DICELO:</p> <p>22 Q You're officer 746?</p> <p>23 A Yes, sir.</p> <p>24 Q So you filled out this report on May 20th, 2012</p> <p style="text-align: right;">Page 44</p>
<p>1 Q Do you know why that was outlawed?</p> <p>2 A Because of, I would say, injury and death for</p> <p>3 as -- asphyxiation.</p> <p>4 Q I'll struggle with that, too.</p> <p>5 A Yes, sir.</p> <p>6 Q As a rule, as soon as someone is handcuffed, to</p> <p>7 protect that person's safety you need to get him or her</p> <p>8 off of his or her stomach; agreed?</p> <p>9 A It depends on the scenario. Typically, yeah,</p> <p>10 we're going to put them in the recovery position,</p> <p>11 depending on, you know, their actions.</p> <p>12 Q Your report doesn't have any numbers at the</p> <p>13 very bottom, does it, any MC numbers?</p> <p>14 A No, sir.</p> <p>15 Q That's okay.</p> <p>16 A It says eight of 14.</p> <p>17 MR. PREGON: I've got one that has numbers, if</p> <p>18 you want.</p> <p>19 (Exhibit No. 1 marked for identification.)</p> <p>20 BY MR. DICELO:</p> <p>21 Q Officer Johnson, I'm handing you what's been</p> <p>22 marked as Plaintiff's Exhibit 1. And I want to direct</p> <p>23 your attention to the bottom. There's these Bates stamp</p> <p>24 numbers, MC 1282. Do you recognize MC 1282 of Exhibit 1</p> <p style="text-align: right;">Page 43</p>	<p>1 at 8:34 approximately in the morning; correct?</p> <p>2 A Yes.</p> <p>3 Q Did you type this into a computer?</p> <p>4 A Yes.</p> <p>5 Q Where is that computer located?</p> <p>6 A It would depend on my assignment the following</p> <p>7 day. We have -- We have approximately 80 of these</p> <p>8 computers. So just depending on what terminal I was at.</p> <p>9 Q Officer Johnson, you used force against Robert</p> <p>10 Richardson; correct?</p> <p>11 A No.</p> <p>12 Q You didn't use any force against him?</p> <p>13 A No.</p> <p>14 Q So you didn't touch him?</p> <p>15 A I touched him, but I didn't use force.</p> <p>16 Q You restrained him; true?</p> <p>17 A I secured him in handcuffs.</p> <p>18 Q That's not -- You don't consider that a use of</p> <p>19 force?</p> <p>20 A No.</p> <p>21 Q So I presume then you didn't fill out any Use</p> <p>22 of Force Reports; correct?</p> <p>23 A Not that I recall.</p> <p>24 Q Based on what you saw, and we'll get to it,</p> <p style="text-align: right;">Page 45</p>

1 **okay, but based on what you saw, nobody used any force**
2 **against him; correct?**
3 MR. PREGON: Objection.
4 A Correct.
5 BY MR. DICELLO:
6 **Q So nobody filled out any Use of Force Reports;**
7 **true?**
8 A Not that I recall.
9 **Q So from your perspective, the incident**
10 **involving Robert Richardson did not involve any use of**
11 **force; true?**
12 MR. PREGON: Objection.
13 A None that I would -- seen.
14 BY MR. DICELLO:
15 **Q Yes, that's correct, it didn't involve any use**
16 **of force?**
17 A None that I had seen, correct.
18 **Q So I was asking you where you filled this out,**
19 **it's on a computer, depending on where you were assigned**
20 **the following day; correct?**
21 A Yes.
22 **Q Now, walk me through it. When you get into the**
23 **computer, do you sign in?**
24 A Yes. We sign in our domain user, which opens

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1 up the computer, and then we have our Tiburon system,
2 which is a separate log-in, and we'll log in on Tiburon,
3 and I will complete my narrative to this report.
4 **Q Is what we're looking at here what you see on**
5 **the screen when you type it into this box?**
6 A Yes.
7 **Q Now, when you log into Tiburon and you go to**
8 **fill out an incident report, are you able to see these**
9 **other narrative statements that are filled out by folks,**
10 **assuming they were filled out before you logged on?**
11 A Yes.
12 **Q Who ordered you or who instructed you, if**
13 **anyone, to fill out this narrative statement?**
14 A I don't specifically recall being ordered to.
15 It would have just been --
16 **Q Part of the protocol?**
17 A It's common practice of me being involved in an
18 incident, I would do an incident report.
19 **Q Let me ask: Why didn't you fill out an**
20 **incident report immediately after or shortly after the**
21 **incident actually occurred?**
22 A My time of the end of my watch was 3:30. So
23 due to the timing of it, versus, you know, getting into
24 overtime, I would just come in and complete the report the

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1 following day while I was assigned on duty.
2 **Q Did you speak with any other corrections**
3 **officers between the time you ended your encounter with**
4 **Mr. Richardson and the time you started filling out this**
5 **report?**
6 A Not that I specifically recall.
7 **Q And when you logged in to fill out your**
8 **narrative report, did you read the other narratives that**
9 **had already been put into the computer?**
10 A Not that I recall.
11 **Q You had access to them, though?**
12 A Yes.
13 **Q So let's go through the narrative just a little**
14 **bit. And a lot of this is repetitive, I apologize. But**
15 **it indicates that at approximately 15:22, so that's 3:22**
16 **in the afternoon for those of us who don't use military**
17 **time as often as you probably do; correct?**
18 A Yes, sir.
19 **Q That's right around shift change; correct?**
20 A Correct.
21 **Q You responded to D Pod for an unknown medical**
22 **condition in cell number 544. And that's all true;**
23 **correct?**
24 A Yes.

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1 **Q So it sounds to me like you have a memory**
2 **independent from just reading this narrative. Is that**
3 **true?**
4 A Yes.
5 **Q Let's try to go through your independent memory**
6 **first and then we can look at the narrative report to help**
7 **us out.**
8 A I understand.
9 **Q But in your own mind's eye, can you tell me**
10 **what you recall seeing as you entered into the D Pod?**
11 A Initially, I -- as I entered, I automatically
12 observed a large black male, which ended up being
13 Mr. Richardson, I observed his panic and his disoriented
14 look in his eyes. Then I was examining the room to secure
15 the scene, and I observed his inmate, his cellmate,
16 standing above him, and he was also -- you know, you can
17 tell the concern on his face.
18 **Q Let me stop. I want to break it down. You**
19 **said the panic and disoriented look in his eyes. I know**
20 **that can be a hard thing to describe. But what is it**
21 **about his expression or demeanor, that is Mr. Richardson,**
22 **that caused you to conclude he was panicked and**
23 **disoriented?**
24 A I would say his aggressive movement, he was

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<p>1 very tense and moving erratically to where you could tell</p> <p>2 he didn't know what was going on. Initially I was, you</p> <p>3 know, wondering if, you know, there was some kind of</p> <p>4 physical altercation and his cellmate had hit him. But</p> <p>5 after observing his cellmate, you could tell he was</p> <p>6 concerned for Mr. Richardson.</p> <p>7 Q And when you first -- what you just described</p> <p>8 you first observed, what was Mr. Richardson's position?</p> <p>9 A He was sitting in a position on his buttocks</p> <p>10 and he was kind of facing out towards the cell, and his</p> <p>11 cellmate was kind of standing above him kind of behind</p> <p>12 him.</p> <p>13 Q Were there any other corrections officers on</p> <p>14 scene when you responded?</p> <p>15 A There was Corrections Officer Benjamin was</p> <p>16 there, and my field training --</p> <p>17 Q Henning was with you?</p> <p>18 A Henning was behind me.</p> <p>19 Q Tell me where Officer Benjamin was and what you</p> <p>20 noticed she was doing.</p> <p>21 A My memory, the door swings out this way.</p> <p>22 Q From cell 544?</p> <p>23 A Yes. So she was standing at the door with the</p> <p>24 door open.</p> <p style="text-align: right;">Page 50</p>	<p>1 know, until medical can respond and medically assess him.</p> <p>2 Q So how did you -- and I'm presuming it was you</p> <p>3 and Sergeant Jackson that did that?</p> <p>4 A Did --</p> <p>5 Q Secured him. I'm going to ask you how you went</p> <p>6 about doing that. But it was the two of you that decided</p> <p>7 to secure him?</p> <p>8 A Initially, I just recall trying verbally, you</p> <p>9 know, keep him down, "Hey, man, sit back there, lean</p> <p>10 against the wall." The wall was behind him and we were</p> <p>11 trying to lean him against the wall. The closer we got,</p> <p>12 you could tell there was almost a fear of us, where his</p> <p>13 movements were becoming more aggressive. So we went ahead</p> <p>14 and applied the hand restraints.</p> <p>15 Q So how did you and Sergeant Jackson, what did</p> <p>16 you all do? He was sitting on the ground?</p> <p>17 A Yeah, he was still sitting kind of back and he</p> <p>18 was kind of moving around, so I secured his, I believe it</p> <p>19 was his left arm, and then we -- Sergeant Jackson, as I,</p> <p>20 you know, held it there, he applied the hand restraints.</p> <p>21 Q Did you pull Mr. Richardson out of the cell to</p> <p>22 do this or was this all done in the cell?</p> <p>23 A I believe in the doorway of the cell is where</p> <p>24 we were handcuffing him.</p> <p style="text-align: right;">Page 52</p>
<p>1 Q All right. When you first got there --</p> <p>2 A To my left.</p> <p>3 Q Thank you.</p> <p>4 When you first got there, was anybody saying</p> <p>5 anything?</p> <p>6 A Not that I can recall.</p> <p>7 Q Okay. Did you say anything when you first</p> <p>8 arrived?</p> <p>9 A Not that I can recall.</p> <p>10 Q Okay, I interrupted you. Why don't you tell in</p> <p>11 your own mind's eye, again, what do you recall happening</p> <p>12 next?</p> <p>13 A Short time after that I respond, Sergeant</p> <p>14 Jackson was there, so I now remember him being there at</p> <p>15 this time. And you can tell, you know, we're trying to</p> <p>16 ask him, you know, "Hey, what's going on," you know, "Are</p> <p>17 you all right, man?" He has no verbal response that I can</p> <p>18 recall. So you can tell he's trying to like get up and</p> <p>19 move out. And due to his large nature, it was like, oh,</p> <p>20 well, we don't want this guy to get up not knowing what's</p> <p>21 going on. He was showing symptoms at this time to me that</p> <p>22 he could possibly be having a seizure. So my concern was</p> <p>23 him getting up, moving, causing more injury to himself.</p> <p>24 So we were trying to keep him down on the ground, you</p> <p style="text-align: right;">Page 51</p>	<p>1 Q So how long did it take you and Sergeant</p> <p>2 Jackson to handcuff -- I presume you're cuffing</p> <p>3 Mr. Richardson's hands behind his back?</p> <p>4 A Yes.</p> <p>5 Q How long did that take?</p> <p>6 A It was a little longer than normal. He -- Due</p> <p>7 to his wide frame, we applied a second pair of handcuffs.</p> <p>8 And so you handcuff the handcuff.</p> <p>9 Q Yep.</p> <p>10 A And each arm goes in. So we secured him in</p> <p>11 handcuffs. I would say less than a minute he was placed</p> <p>12 in the handcuffs.</p> <p>13 Q What was his position once he was handcuffed,</p> <p>14 once you and Sergeant Jackson put on the two sets of</p> <p>15 handcuffs?</p> <p>16 A He was -- Initially as we're placing him in</p> <p>17 handcuffs, he's on his stomach area. And then he would</p> <p>18 have been placed on his side, like in the recovery</p> <p>19 position. And then I just straddled his lower body and</p> <p>20 like his leg area, and then Sergeant Jackson was up by</p> <p>21 his -- like behind his back, had him on his side, I</p> <p>22 believe he was on his left side.</p> <p>23 Q When you said "straddled his lower body" area,</p> <p>24 tell me how you were positioned, you know, where -- When</p> <p style="text-align: right;">Page 53</p>

<p>1 you say "straddled," I presume you had -- you're on your 2 knees? 3 A Yes. 4 Q And your right knee was on the right side of 5 his body on the floor? 6 A Well, he's laying on his side, so his legs 7 would have been in between mine, and I would be on his 8 lower portion of his legs. 9 Q Whereabouts on his legs were you straddling? 10 A I would say his thigh area. 11 Q Okay. And then Sergeant Jackson, you said, 12 went up kind of on his -- on Mr. Richardson's side of his 13 body? 14 A Yeah. He's behind him and securing him, you 15 know, from -- just with his body where the inmate is kind 16 of laying on his -- his like side area. 17 Q Right side? 18 A His left side. 19 Q So Mr. Richardson was laying on his left side? 20 A To my -- 21 Q Is that what you remember? 22 A Yes. 23 Q And so Sergeant Jackson was then behind him? 24 A Yes.</p> <p style="text-align: right;">Page 54</p>	<p>1 intentionally, like "Oh, there's an officer, I'm going to 2 swing at him," it's just the fear that his body didn't 3 know what was going on. 4 Q Once you had his hands cuffed behind his back, 5 did that abate or eliminate the concern you had for an 6 unintentional attack? 7 A It greatly decreased it. But they can still 8 assault us, so -- 9 MR. PREGON: Can we do a comfort break at nine? 10 MR. DICELO: Yeah. 11 MR. PREGON: Yeah. Just give you a heads up. 12 MR. DICELO: Sure. 13 BY MR. DICELO: 14 Q Your statement indicates that you straddled his 15 lower hips. Is that probably more accurate maybe than his 16 thigh area? 17 A It just depends. I don't specifically recall. 18 Q You filled this out within 24 hours of the 19 incident occurring? 20 A Yes. 21 Q Is it fair to say, Officer, that your memory 22 back a day after the incident is probably better than your 23 memory today? 24 A Yeah. I mean, it's kind of the same area;</p> <p style="text-align: right;">Page 56</p>
<p>1 Q So Sergeant Jackson would have been on your 2 left? 3 A Kind of in front of me and to my left, yes. 4 Q All right. What was Mr. Richardson doing 5 during this time once you have him handcuffed and you're 6 straddling his lower body and Sergeant Jackson is then 7 behind his back? 8 A Oh, he's still showing signs of being 9 disoriented. I remember asking repeated questions with 10 receiving no response back. He wasn't telling us 11 anything. 12 Q Your statement says that you "feared an 13 unintentional attack on staff" at the very bottom of the 14 first page, eight of 14. 15 A Yes. 16 Q What is an unintentional attack on a staff 17 member? 18 A I've had dealings with inmates in the past that 19 have come out with seizures and had a violent episode 20 where they're in a panic, they don't know what's 21 happening, so they're swinging punches. Always seem to be 22 the larger guys that we have this problem with. So yeah, 23 my initial, you know, worry was, "Man, this guy is going 24 to end up swinging at us." I can tell he wasn't</p> <p style="text-align: right;">Page 55</p>	<p>1 hips, thighs. 2 Q Okay. All right. Why don't we take a break. 3 (Discussion held off the record.) 4 BY MR. DICELO: 5 Q We're back from a short break, Officer Johnson. 6 Did you have any understanding as to what, if any, medical 7 conditions Robert Richardson had at the time you 8 encountered him? 9 MR. PREGON: In general, you're saying? 10 MR. DICELO: Yeah. 11 BY MR. DICELO: 12 Q Anything that was on file at the jail? 13 A No. 14 Q Is that information you have access to, or no? 15 A No. Typically, with the HIPAA violations and 16 everything, we don't have direct access to that. 17 Something like a seizure, there might be a notation in the 18 screen that a field officer, you know, information to 19 respond to. But as far as his medical history, no, I 20 don't have access to that. 21 Q When you say "notation in the screen," what 22 screen are you talking about? 23 A We have a hazards screen that we can indicate, 24 you know, whether they're suicidal, whether they're an</p> <p style="text-align: right;">Page 57</p>

<p>1 escape hazard, you know, whether there's a medical 2 condition hazard, whether it's blood sugar, dementia or, 3 you know, seizures would be one that sometimes are 4 indicated on that screen.</p> <p>5 Q And how does the corrections officer go about 6 accessing the hazards screen?</p> <p>7 A Through our Tiburon system, we have a 8 corrections file that is basically the inmate's, you know, 9 file. And they have different, you know, you know, 10 information that is entered for that particular inmate.</p> <p>11 Q Would something like heart disease be on that? 12 Have you ever seen heart disease on that screen?</p> <p>13 A I have not. Typically, that would be kept in 14 our NaphCare's computers.</p> <p>15 Q What about hypertension or high blood pressure?</p> <p>16 A High blood pressure perhaps could be in there, 17 such as a narrative. We have like a hazards screen, and 18 then another screen is a -- is a management screen where 19 we would type in narratives for that sort of thing.</p> <p>20 Q Can I get an understanding as to what the chain 21 of command was on June 19th, 2012 during your shift? Do 22 you remember what it was?</p> <p>23 A Yes. It would be, you know, corrections 24 officers, then it would be our direct supervisors of</p> <p style="text-align: right;">Page 58</p>	<p>1 MR. PREGON: Objection.</p> <p>2 A No, I wouldn't say it's true. We weren't 3 holding him down by any means. We were more or less 4 pinning him in. And in my current time, when I was there, 5 there was maybe three of us that were there.</p> <p>6 BY MR. DICELLO:</p> <p>7 Q So for the time you were there, it's your 8 testimony that Mr. Richardson wasn't being held down?</p> <p>9 MR. PREGON: Objection.</p> <p>10 A I would say he was being secured. Held down 11 would be like physically holding him down and not letting 12 him move. We were basically positioned to prevent his 13 movements. It wasn't like we were on top of him or, you 14 know, securing him down. We were -- Like I was straddling 15 him, but he still had free movement underneath me in that 16 small area.</p> <p>17 BY MR. DICELLO:</p> <p>18 Q Okay.</p> <p>19 A Being held down, to me, is like us piling on 20 top of him. So --</p> <p>21 Q I understand you were -- Sergeant Jackson 22 ordered other oncoming staff members to replace you and 23 then you left for the day; correct?</p> <p>24 A Yes.</p> <p style="text-align: right;">Page 60</p>
<p>1 sergeants, and then it would be Captain Crosby or Captain 2 Flanders, one or the other.</p> <p>3 Q So we know it was Captain Flanders or Captain 4 Crosby on first shift second watch on May 19th, 2012. Do 5 you remember who the sergeants were on that shift?</p> <p>6 A I remember Sergeant Jackson being my direct 7 supervisor.</p> <p>8 Q Okay.</p> <p>9 A I'm unaware if he was assigned -- we have a 10 booking sergeant, which handles first floor, and we have a 11 housing sergeant that would be assigned to the upstairs 12 housing portion of the jail. I don't recall right off. 13 I'm sure his narrative would include where he was assigned 14 that day.</p> <p>15 MR. PREGON: Do you have a project sergeant, 16 too?</p> <p>17 A We do have detail sergeants. I'm unaware of -- 18 Those change from day-to-day.</p> <p>19 BY MR. DICELLO:</p> <p>20 Q NaphCare produced some documents in this case, 21 and one of the statements in one of the reports filled out 22 by some of the medical personnel is that the patient was 23 being held down in a prone position by several 24 correctional officers. That's true; correct?</p> <p style="text-align: right;">Page 59</p>	<p>1 Q In your own mind, do you remember how long it 2 was that -- from the time that you handcuffed Robert 3 Richardson to the point where Sergeant Jackson relieved 4 you?</p> <p>5 A I would say a few minutes. It wasn't very 6 long.</p> <p>7 Q "A few" means different things to different 8 people, I've learned. Some people say two or three, other 9 people think it's ten or 15.</p> <p>10 A I would say no more than five.</p> <p>11 Q No more than five. So during the approximate, 12 and I understand it's approximately, and we have a video, 13 I want to show it to you, that identifies some people, but 14 during the approximately five minutes that you recall you 15 were straddling Mr. Richardson, who else was assisting 16 during that time?</p> <p>17 A I specifically remember Sergeant Jackson.</p> <p>18 Q Anyone else?</p> <p>19 A I believe Officer Stumpff come in at one point.</p> <p>20 Q Where did Officer Stumpff position himself?</p> <p>21 A I think he was to my left, I believe, maybe to 22 my right. I can't specifically recall. I think he was 23 still to my left. I think him and Sergeant Jackson might 24 have both been to my left.</p> <p style="text-align: right;">Page 61</p>

1 **Q What were they doing?**
2 A They were trying to, you know, ask him
3 questions, get him to, you know, respond, get some kind
4 of, you know, grasp of what his medical issue was. They
5 were just kind of stationed, just kind of pinning him in
6 behind me.
7 **Q Do you remember a Medic Stockhauser there**
8 **during the time you were there, or no?**
9 A I don't specifically remember, no.
10 **Q Okay.**
11 A My trainee I believe was still behind me.
12 **Q Henning?**
13 A Yes.
14 **Q We're going to have to share my iPad a little**
15 **bit here.**
16 A All right.
17 **Q Because I do want to try to have you maybe**
18 **identify some folks, and I can identify the time for the**
19 **record. That might help us.**
20 (Discussion held off the record.)
21 **BY MR. DICELLO:**
22 **Q So maybe we can share this. Just showing you,**
23 **this is what's titled the Richardson MPG, and we're at**
24 **ten, 11, 12 seconds. Does this appear to be cell 544?**

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1 A Yes.
2 **Q And now we're at 16 seconds into the video.**
3 **Does that look to be Mr. Richardson's cellmate?**
4 A Yes.
5 **Q I'm going to back it up again. And I think**
6 **what happens in this video is it kind of takes pictures**
7 **second by second, so it's frame by frame. Have you seen**
8 **this video before?**
9 A Yes.
10 **Q And is that your understanding of how the video**
11 **plays?**
12 A Yes.
13 **Q It's kind of --**
14 A Delayed.
15 **Q Yeah. So I want to try to have you stop me**
16 **when you first see yourself.**
17 A Okay.
18 Right there.
19 **Q So at six seconds, that's your back to us?**
20 A Yes.
21 **Q And is that Officer Benjamin?**
22 A It is.
23 **Q So it looks like you were the first person into**
24 **the cell?**

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1 A Yes.
2 **Q All right. And you've told us what you saw at**
3 **this point in time?**
4 A Yes.
5 **Q Now, we see somebody at nine seconds who is**
6 **coming in from the right side of the screen. Is that**
7 **Sergeant Jackson?**
8 A No, this is Sergeant Jackson behind me.
9 **Q Oh, okay. So now the person's back to us is**
10 **Sergeant Jackson and you're inside?**
11 A Yes, sir.
12 **Q Do you know who this person is on the**
13 **right-hand side?**
14 A That is my trainee, Officer Henning.
15 **Q That's Henning? Okay. And then Benjamin?**
16 A Yes.
17 **Q So we've just watched from about 16 seconds up**
18 **to 43 seconds. And then do you know what's going on at**
19 **this point in time?**
20 A Well, he's being handcuffed.
21 **Q Still cuffing him?**
22 A I can't tell if he's handcuffed or not.
23 **Q It looks to me like several more officers have**
24 **responded; is that accurate?**

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1 A Yes.
2 **Q I think you told me earlier, but you folks had**
3 **enough corrections officers to deal with Mr. Richardson;**
4 **correct?**
5 A Yes.
6 **Q You outnumbered him seven to one or something**
7 **like that; right?**
8 A Yes.
9 **Q Fair to say at 1:01 Mr. Richardson is facedown?**
10 A Yes. It appears he's handcuffed.
11 **Q 1:21, fair to say he's still facedown on the**
12 **ground?**
13 A He's kind of in the recovery position there.
14 His body is angled, like I'm behind him.
15 **Q Angled?**
16 A Angled.
17 **Q So he's on his right side?**
18 A Yes.
19 **Q So it looks to be a lot of corrections**
20 **officers. What are they all doing; do you know?**
21 A I remember them asking questions. It looks
22 like now the medic is providing, you know, his medical
23 evaluation to the inmate. I'm still down at the other
24 end.

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1 **Q Who is this; do you know?**
2 A That's Sergeant Lewis.
3 **Q And this is the medic?**
4 A The medic is in front of this guy with the
5 blue.
6 **Q And that's Medic Stockhauser?**
7 A Yes.
8 **Q Just try to get some of the glare off of this.**
9 MR. PREGON: Do you want me to shut the light
10 off?
11 MR. DICELLO: It might help.
12 (Turns light off.)
13 BY MR. DICELLO:
14 **Q Does that help you?**
15 A Yeah.
16 **Q Okay.**
17 MR. PREGON: It's a lot better.
18 BY MR. DICELLO:
19 **Q So I'm just going to pause it at 2:23. Is this**
20 **what you're describing as the recovery position where**
21 **Mr. Richardson's hands are cuffed behind his back and he**
22 **looks to be kind of laying on his right side?**
23 A Yes.
24 **Q So as you were straddling his hip/lower thigh**

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1 **area, was he laying on his right leg or were both his legs**
2 **still on the ground? Does that make sense?**
3 A To my memory, he's -- you know, his right leg
4 is on the ground and then his left leg would have been on
5 top of it.
6 **Q All right. What I want to do is maybe try to**
7 **identify when it is that you leave.**
8 A I understand.
9 **Q So it looks like that -- that's you back there,**
10 **just to orient myself?**
11 A Yeah. I'm here. This is Officer Henning
12 behind me.
13 **Q Who is that, the head that's right in front of**
14 **your face?**
15 A This here?
16 **Q No, it looks like there's a head right there.**
17 A It goes Marshall, me, then this in the back is
18 Officer Henning.
19 **Q So that's Henning behind you?**
20 A Yes.
21 **Q So what's Henning doing behind you?**
22 A You know, he's just behind me.
23 **Q He looks to be straddling or sitting on the**
24 **legs as well, doesn't he?**

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1 MR. PREGON: Objection.
2 A I can't see that in the video.
3 BY MR. DICELLO:
4 **Q I mean, he's not standing up, is he?**
5 A No.
6 **Q So he's squatting down behind you?**
7 A I have no idea.
8 **Q So how many officers are squatting around**
9 **Mr. Richardson right now?**
10 A It appears to be four.
11 MR. PREGON: At the 2:44 mark?
12 MR. DICELLO: Yeah. Thank you.
13 BY MR. DICELLO:
14 **Q Do you ever remember the medic trying to give**
15 **oxygen to Mr. Richardson?**
16 A Yes.
17 **Q What's your understanding of why they were**
18 **trying to give him oxygen?**
19 A I do not know.
20 **Q So let me just ask you: 3:41, why aren't you**
21 **letting Mr. Richardson up?**
22 MR. PREGON: Objection.
23 A I mean, he's -- he's still being medically
24 evaluated at that point.

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1 BY MR. DICELLO:
2 **Q Why don't you get him on to his feet or sit him**
3 **down?**
4 A It would be decided by the sergeant and the
5 medical staff at that point. I'm just securing,
6 preventing his movements to -- I remember him refusing,
7 like trying to refuse medical as far as like moving his
8 head and making it difficult for Medic Stockhauser to
9 apply the oxygen mask. So he's still showing signs of
10 that being disoriented.
11 **Q So why -- I think if I heard your answer, it**
12 **was you were basically following the orders of the**
13 **sergeant and the medical staff to keep him on the ground**
14 **at this point?**
15 A It was -- I think it was just a, you know,
16 based on his actions, that he can't -- you know, he's just
17 not oriented to be like, "Hey, stand up for me." We had
18 already tried that. And because he was disoriented, we
19 were unable just to stand him up. It wasn't like he got
20 the oxygen mask and he was automatically better. He was
21 still obviously in medical distress. So he was unable to
22 stand at that point.
23 MR. PREGON: Listen to his question. He asked
24 if you were responding to what Sergeant Jackson and the

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1 medical staff were telling you to do.
 2 BY MR. DICELLO:
 3 **Q Well, I appreciate the answer. I'll ask you**
 4 **another question. Did you ever try to sit him up and let**
 5 **him sit on the ground?**
 6 A No.
 7 **Q And after you put him on his belly or the**
 8 **recovery position, did you ever try to stand him up on his**
 9 **feet?**
 10 A No. He was receiving his medical evaluation at
 11 that point.
 12 **Q Well -- Okay. So we're now approaching four**
 13 **minutes. Why is he handcuffed?**
 14 A Because he's still disoriented, still showing
 15 signs -- the same signs why he was initially handcuffed.
 16 **Q Which is because he's having a medical episode?**
 17 A Disorientation and his aggressive movements
 18 where he's still in a panic.
 19 **Q We're now at 4:33. I'm asking you, Officer**
 20 **Johnson, but he -- does Mr. Richardson still appear to be**
 21 **laying on his right side, or does he appear to be laying**
 22 **more on his stomach?**
 23 A He's still kind of on his right side.
 24 **Q Would you say that's a recovery position?**

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1 A It's an attempted recovery position. It looks
 2 like he's folding over to his left.
 3 **Q And you're still involved; right? You're still**
 4 **here?**
 5 A Yes.
 6 **Q At 4:39, 4:40, you're still in the same**
 7 **position you've described for us?**
 8 A Yes.
 9 **Q All right.**
 10 A I don't know if I'm behind him or if I'm still
 11 straddling him, but I'm still down there at his leg area.
 12 **Q I know this is a little tedious, but we've got**
 13 **to -- this is my one chance to ask you questions before**
 14 **trial. So I want to give you the benefit of seeing the**
 15 **video.**
 16 A I understand.
 17 **Q So it looks like, I mean I'm counting one, two,**
 18 **three, four hands, maybe five hands that you can see on**
 19 **Mr. Richardson's head or back area; agreed?**
 20 MR. PREGON: At 5:26?
 21 BY MR. DICELLO:
 22 **Q Yes. At 5:26.**
 23 A Yes.
 24 **Q What are people -- Did you have your hands on**

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1 **him?**
 2 A I don't recall.
 3 **Q Okay.**
 4 A I would assume that I'm still behind him
 5 bracing him, yes.
 6 **Q What is your understanding of what these**
 7 **officers are doing with their hands on Mr. Richardson's**
 8 **back?**
 9 A Probably keeping him in that recovery position
 10 versus laying forward on his stomach.
 11 **Q So they're restraining him?**
 12 MR. PREGON: Objection.
 13 A I would say still securing him.
 14 BY MR. DICELLO:
 15 **Q What's the difference between securing and**
 16 **restraining?**
 17 A Restraining is to, you know, to unable any
 18 movement. Securing is to still give them that leeway to
 19 move, you know, but not completely free.
 20 **Q And it took four officers to secure his**
 21 **movement?**
 22 A Yeah.
 23 **Q You're still there at 5:48?**
 24 A Yes.

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1 **Q Okay. Who is this gentleman in the front**
 2 **again?**
 3 A I believe that's Officer Marshall.
 4 **Q Do you remember Officer Marshall's knee being**
 5 **on Mr. Richardson's back?**
 6 MR. PREGON: Objection.
 7 A No.
 8 BY MR. DICELLO:
 9 **Q Does it appear that his knee is on his back**
 10 **there?**
 11 MR. PREGON: Objection.
 12 A No. It appears it's behind him and he's --
 13 Mr. Richardson is kind of leaning back into him. He's not
 14 on top of him applying his body weight. It looks like his
 15 body weight is still on his left leg.
 16 MR. PREGON: Can we get the time of that on the
 17 video?
 18 MR. DICELLO: Yeah, it was shortly before the
 19 six-minute mark.
 20 MR. PREGON: Gotcha.
 21 BY MR. DICELLO:
 22 **Q So we're now approaching six and a half**
 23 **minutes. And are your answers still the same as to the**
 24 **reason why you're not letting Mr. Richardson up?**

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1 A Yes.

2 **Q And still the same answers for why you're not**

3 **trying to maybe sit him on his butt?**

4 A Yes.

5 **Q We're at 6:47. Are you still describing that**

6 **as the recovery position?**

7 A Yes.

8 **Q Did you ever have any concerns that**

9 **Mr. Richardson was suffering a heart attack?**

10 A No.

11 **Q Have you seen people suffer heart attacks in**

12 **the jail?**

13 A Yes.

14 **Q Did the medic ever say, "I think he had a heart**

15 **attack"?**

16 A I don't recall any conversation with the medic.

17 **Q All right.**

18 A I was at the other end. I'm standing up, so --

19 **Q Okay. Now, you're standing up. At 7:06. Is**

20 **that you pointing your finger?**

21 A Yes.

22 **Q So has somebody replaced your position?**

23 A It appears Officer Henning is behind me.

24 **Q Do you think that Officer Henning has now**

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1 **replaced your position straddling Mr. Richardson?**

2 MR. PREGON: Objection.

3 A I'm unable to tell.

4 BY MR. DICELLO:

5 **Q Did someone replace your position there?**

6 A I believe Officer Beach is coming in to replace

7 my position.

8 **Q So maybe I should stop it at 7:08. Which one**

9 **is Officer Beach?**

10 A He's not in the frame yet.

11 **Q Not there? So now we're at 7:29. Is this you**

12 **here?**

13 A Yes.

14 **Q 7:37. Fair to say you're now no longer in the**

15 **frame?**

16 A Correct.

17 **Q And do you remember sticking around for awhile**

18 **or did you leave?**

19 A I believe I left.

20 **Q Okay. Can you maybe try to help me out who is**

21 **still here as of the time 7:37 that you've now left the**

22 **frame?**

23 A That's Sergeant Jackson, Sergeant Lewis, this

24 is Marshall, I don't know if this is still Henning or not,

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1 I think there's another figure back here, this is Officer

2 Stumpff, Medic Stockhauser, and this is Officer Mayes.

3 **Q Who did you say this was up here? I'm sorry.**

4 A I believe that's Officer Marshall.

5 **Q And this is?**

6 A Officer Mayes.

7 **Q Officer Mayes. So your approximation of about**

8 **five minutes in terms of once Mr. Richardson was on the**

9 **ground is -- looks to be pretty accurate; agreed?**

10 A Yes.

11 **Q Okay, thank you.**

12 MR. DICELLO: Thanks for the lights.

13 BY MR. DICELLO:

14 **Q Officer Johnson, were you ever interviewed by**

15 **any investigators in connection with this incident?**

16 A No, sir.

17 **Q When did you learn that Mr. Richardson died?**

18 A After the incident, I was off duty, and I

19 responded to the locker room, my after work routine of

20 getting dressed in my gym clothes, and then we have a gym

21 there in the basement of the jail. I worked out, and then

22 in the middle of my workout, Sergeant Jackson came running

23 through, and he was in a hurry. He was -- received a SWAT

24 call out, he's part of the SWAT team, so he was changing,

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1 getting ready for his -- changing uniforms into a SWAT

2 uniform, and he said, "Dude, you're not going to believe

3 this, you know, that inmate has passed." I was like

4 "What"? And I was blown away it happened, because when I

5 left, you know, everything was fine. And he said, "Yeah."

6 I was like, "No kidding." And so he continued to get

7 ready for SWAT stuff and I actually had to run back in

8 jail and grab his lunch bag from his office, brought it

9 down to him, and he left.

10 **Q I don't want to know if this is something you**

11 **learned through lawyers or talked about through lawyers,**

12 **you have to make sure you don't talk about it, but when**

13 **did you learn how Mr. Richardson died?**

14 A I don't specifically remember hearing how other

15 than with the --

16 **Q Through the case?**

17 A Yes.

18 **Q Did you ever undergo any additional training as**

19 **a result of this incident that you know of?**

20 A No.

21 **Q As far as you understand, in connection with**

22 **your involvement in this incident, the policies and**

23 **procedures that are in place at the Montgomery County Jail**

24 **were followed; correct?**

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1 A Yes.

2 Q I want to revisit an answer you gave earlier.

3 And I think you said that putting inmates on their bellies

4 and cuffing them behind their back is pretty common?

5 A Yes.

6 Q This incident, the video will show, was about

7 22 minutes of Mr. Richardson being on his belly or what

8 you've described as a recovery position with officers

9 surrounding him.

10 A Yes.

11 Q Can you recall any situation where you were

12 involved where a detainee at the jail was held on the

13 ground for that length of time?

14 MR. PREGON: Objection.

15 Go ahead.

16 A I don't specifically recall any incidents. It

17 wasn't appearing to me to be any different than any of the

18 other incidents. You know, when these things happen, you

19 know, minutes seem like hours. So you know, it wasn't

20 like, you know, it hit me like, "Man, this guy has been

21 here for an excessive amount of time." It was just common

22 standard medical issue.

23 BY MR. DICELLO:

24 Q And during the time you were there, no

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1 supervising corrections officer instructed anybody to get

2 Mr. Richardson on to his feet; correct?

3 A Correct.

4 Q And no supervising correction officer

5 instructed anybody to roll him over on to his back;

6 correct?

7 A Not that I recall, correct.

8 Q And you don't recall any instructions from any

9 supervising corrections officer to sit Mr. Richardson up

10 once he was cuffed up; correct?

11 A Correct.

12 Q And same questions, but now any instructions

13 from any medical personnel. You don't recall any medical

14 personnel ever telling you get the inmate off his stomach,

15 roll him on his back, sit him up, or stand him up;

16 correct?

17 A Correct.

18 Q As far as you could tell, did Mr. Richardson

19 injure himself in any way?

20 A Just from prior to me getting there, I observed

21 the blood area coming from his mouth. So I don't know how

22 that happened. But he was bleeding from his mouth.

23 Q How long have you worked with Sergeant Lewis?

24 A He's always been on a different shift than I.

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1 Q Okay.

2 A So there wasn't much work, you know, me

3 directly under him. I believe when he was initially

4 trained, he might have been on days. And I think they're

5 FTO, I'm not sure, but I believe it's 30 days, also, and I

6 think he was trained on days. So that would have been my

7 most interaction with him.

8 Q What about a Detective Michael Sollenberger?

9 Did you ever work with him?

10 A No, sir. I sat maybe on an IA investigation as

11 a union rep might have been my only encounter with that

12 detective.

13 Q And what was his role in that circumstance and

14 what was your role?

15 A He was the investigating officer as a detective

16 in our IA unit.

17 Q Internal affairs?

18 A Yes, sir. And I was in there as a rep for the

19 person that was being interviewed.

20 Q The person that was being interviewed was a

21 fellow corrections officer?

22 A Yes.

23 Q And was that in connection with an

24 investigation where there was some allegation by someone

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1 that a fellow officer had broke the rules?

2 A I would assume. I don't even specifically

3 recall.

4 Q Is it your understanding that Detective

5 Sollenberger was given the responsibility to investigate

6 fellow officers to make sure they were following the

7 rules?

8 A Yes.

9 Q That's all the questions I have for you. Some

10 other people might have some more. Thanks.

11 MR. PREGON: Anything?

12 MS. STARTS: No.

13 MR. PREGON: You have the right to review the

14 transcript when it's ordered and transcribed.

15 And I would say we'll read. We won't waive

16 that right.

17 - - -

18 (Signature not waived.)

19 - - -

20 And, thereupon, the deposition was concluded at

21 9:46 a.m.

22 - - -

23

24

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<p>1 December 3, 2015</p> <p>2 Dear Mr. Johnson,</p> <p>3 You have chosen to read and sign your transcript.</p> <p>4 Please do not mark on the transcript. Any</p> <p>5 corrections/changes you may desire to make in your</p> <p>6 testimony should be typewritten or printed on the errata</p> <p>7 sheet at the end of testimony, giving the page number,</p> <p>8 line number and desired correction/change. After you have</p> <p>9 read the transcript, sign your name on the correction</p> <p>10 sheet and where indicated at the close of testimony before</p> <p>11 a notary public.</p> <p>12 The Rules of Civil Procedure allow thirty days for</p> <p>13 you to read and sign. Please return the signature page</p> <p>14 and errata sheet to Whitney Layne, 6723 Cooperstone Drive,</p> <p>15 Dublin, Ohio 43017 within that time. Failure to do so in</p> <p>16 the allotted time will result in your transcript being</p> <p>17 used as though read and signed by you.</p> <p>18</p> <p>19 Sincerely,</p> <p>20 _____</p> <p>21 Whitney Layne</p> <p>22 Professional Reporter</p> <p>23</p> <p>24 Cc:</p> <p>25 Nick DiCello</p> <p>26 Carrie Starts</p> <p>27 Jamey Pregon</p> <p>28</p> <p>29</p> <p>30</p> <p>31</p> <p>32</p> <p>33</p> <p>34</p> <p>Page 82</p>	
<p>1 State of _____</p> <p>2 County of _____</p> <p>3 I, DUSTIN JOHNSON, do hereby certify that I have</p> <p>4 read the foregoing transcript of my deposition given on</p> <p>5 November 17, 2015; that together with the correction page</p> <p>6 attached hereto noting changes in form or substance, if</p> <p>7 any, it is true and correct.</p> <p>8 _____</p> <p>9 DUSTIN JOHNSON</p> <p>10 I do hereby certify that the foregoing transcript</p> <p>11 of the deposition of DUSTIN JOHNSON was submitted to the</p> <p>12 witness for reading and signing; that after he had stated</p> <p>13 to the undersigned Notary Public that he had read and</p> <p>14 examined his deposition, he signed the same in my presence</p> <p>15 on the ____ day of _____, 2015.</p> <p>16 _____</p> <p>17 Notary Public</p> <p>18 My Commission Expires on _____</p> <p>19 - - -</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>Page 83</p>	

1 State of Ohio


2 County of Montgomery

3 I, DUSTIN JOHNSON, do hereby certify that I have
4 read the foregoing transcript of my deposition given on
5 November 17, 2015; that together with the correction page
6 attached hereto noting changes in form or substance, if
7 any, it is true and correct.

8 

9 DUSTIN JOHNSON

10 I do hereby certify that the foregoing transcript
11 of the deposition of DUSTIN JOHNSON was submitted to the
12 witness for reading and signing; that after he had stated
13 to the undersigned Notary Public that he had read and
14 examined his deposition, he signed the same in my presence
15 on the 14 day of December, 2015.

16 

17 Notary Public

18 My Commission Expires on 12.10.17

19 - - -

20

21

22

23

24

1 TO THE REPORTER:

2 I have read the entire transcript of my deposition taken
3 on the 17th day of Nov, 2015, or the same has been
4 read to me. I request that the following changes be
5 entered upon the record for the reasons indicated.

6

7 Page Line Correction and reason therefore

8 NO CHANGES

9

10

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22

23 Date 12-14-15 Signature C/o [Signature] 746

24

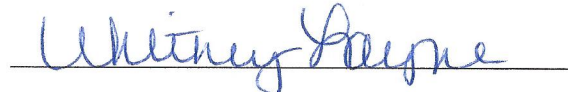
CERTIFICATE

State of Ohio :

County of Franklin:

I, Whitney Layne, Notary Public in and for the State of Ohio, duly commissioned and qualified, certify that the within named DUSTIN JOHNSON was by me duly sworn to testify to the whole truth in the cause aforesaid; that the testimony was taken down by me in stenotype in the presence of said witness; afterwards transcribed upon a computer; that the foregoing is a true and correct transcript of the testimony given by said witness taken at the time and place in the foregoing caption specified.

IN WITNESS WHEREOF, I have set my hand and affixed my seal of office at Dublin, Ohio, on this 3rd day of Decemer, 2015.



Whitney Layne, Notary Public

In and for the State of Ohio

My Commission expires May 4, 2020

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